IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1524 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MINOR BHARATSINH NAVUJI VIHOL

Versus

RAVAL SURESHKUMAR AMBALAL

Appearance:

1. Civil Revision Application No. 1524 of 2001

MR HN BRAHMBHATT for Petitioner No. 1-2

MR VC DESAI for Respondent No. 1

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 12/04/2002

ORAL JUDGEMENT

Heard Mr. Brahmbhatt, learned advocate for the petitioner - original appellant - plaintiff and Mr. Desai, learned advocate for the respondent - defendant.

During the hearing, I was taken through the order passed by the learned trial Judge dated 13th December, 1994 below Application Ex. 5 filed by the plaintiff and Ex. 30 filed by the defendant, who has purchased the property in Special Civil Suit No. 99 of 1994 as well as the order passed by the learned 3rd Joint District Judge, Mehsana dated 5th November, 2001 in Civil Misc. Appeal No. 254 of 1994 and 255 of 1994 filed by the plaintiff and defendant respectively. It is the contention of Mr. Brahmbhatt that the claim is in respect of the suit property, which was sold in favour of respondent defendant for which the suit was filed for seeking declaration and injunction. It is also his case that both the courts have also expressed that the subject matter of the suit property, whereby, the plaintiff minor has interest and the said property is sold by defendant to the purchaser. It is his submission that even earlier, when the matter came before this Court by way of Appeal From Order, the matter was remanded back and had passed an order, which is under challenge. As according to him that the courts below as well the appellant court has without appreciating evidence that suit for injunction was filed and injunction was sought for against the defendant. As according to the plaintiff, the possession of the suit property is not with the defendant, who has purchased the property. He has also submitted that both the courts have committed error in not protecting the interest of the plaintiff. If, according to him that from day one, the protection which was in force in favour of the plaintiff, which continued till date. He accordingly, submitted that as the suit is of 1994, necessary direction be given to dispose of the suit as expeditiously as possible and the parties are directed to maintain status quo till then.

2. Mr. Desai, learned advocate for the respondent has taken me from the affidavit filed by Shri Shantilal Joitaram Raval, the Power of Attorney Holder of respondent no. 1 and the documents attached thereto, wherein, as he has also relied upon certain orders passed by this court in the proceedings at the end of plaintiffs as well as the revision application filed before this court by the petitioner. He has also placed reliance upon the statement made by Talati and the entries in revenue record of rights and other mutation. It is his submission that possession of the suit land has been given to the respondent no. 1 by the purchaser on 18.1.1994 and as found from the findings given by the trail Court as well as appellate Court wherein, the defendant has prayed that he is in possession of the suit land and plaintiff be restrained from dispossessing them

and others. The trial Judge as well as Appellate Judge has while considering the case put forward by the parties, have decided the case in favour of defendant no. 1.

3. Considering the facts and submissions made before me, I am of the opinion that both the courts have recorded concurrent findings and this is not a matter wherein this court is required to entertain the revision application while exercising my revisional jurisdiction under Section 115 of the CPC. Hence there is no substance in this Revision Application. As the suit is of the year 1994, I am inclined to give direction to dispose of the suit as expeditiously as possible and learned trial Judge is directed to dispose of the suit No. 99 of 1994 latest by 31st March, 2003. The parties are directed to cooperation to enable the trial Court to proceed with the matter and dispose of within the time prescribed by this Court. The learned trial Judge is also directed to decide the suit in accordance with law without prejudice the order of this court as well as order passed by the appellate Judge. Revision Application is accordingly rejected with no order as to costs. Rule discharged. Office is directed to send writ forthwith.

(D.K.Trivedi,J.)
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